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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,281	02/03/2006	Gerrit Jan Nieuwenhuis	MULLE45.001APC	6247
20995	7590	07/11/2007	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			BUI, LUAN KIM	
			ART UNIT	PAPER NUMBER
			3728	
			NOTIFICATION DATE	DELIVERY MODE
			07/11/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com  
eOAPilot@kmob.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/541,281	NIEUWENHUIS, GERRIT JAN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Luan K. Bui	3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 21 May 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,4 and 6-15 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,4 and 6-15 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
 

Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)
 

Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

***Drawings***

1. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 5/21/2007 have been disapproved for entry because drawings introduce new matter. 37 CFR 1.2121 (f) states that no amendment may introduce new matter into the disclosure of an application. The original disclosure does not support the showing of the added features in Figure 1 because the original disclosure states “an incision line 10, 11, 20, 21 may extend e.g. straight from the upper edge of the foil bag to the upper circumferential edge of the opening and then moreover may extend over a length of some millimeters to about 2 centimetres beyond the lower circumferential edge of the opening” but does not indicate that only one of the incision lines may extend beyond the lower circumferential edge of the opening as shown by the Applicant of the incision line 10 in Figure 1. Correction is required.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will

be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The following is a quotation of 37 CFR 1.71(a)-(c):

(a) The specification must include a written description of the invention or discovery and of the manner and process of making and using the same, and is required to be in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which the invention or discovery appertains, or with which it is most nearly connected, to make and use the same.

(b) The specification must set forth the precise invention for which a patent is solicited, in such manner as to distinguish it from other inventions and from what is old. It must describe completely a specific embodiment of the process, machine, manufacture, composition of matter or improvement invented, and must explain the mode of operation or principle whenever applicable. The best mode contemplated by the inventor of carrying out his invention must be set forth.

(c) In the case of an improvement, the specification must particularly point out the part or parts of the process, machine, manufacture, or composition of matter to which the improvement relates, and the description should be confined to the specific improvement and to such parts as necessarily cooperate with it or as may be necessary to a complete understanding or description of it.

3. The specification is finally objected to under 37 CFR 1.71, as the specification, as originally filed, does not provide support for the new matter as now claimed. The specification as filed does not provide support for "the front flat foil bag portion has one or more incisions between the upper edge and the opening" as in claim 1, because the specification discloses only one incision between the upper edge and the opening.

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4. Claims 1, 4 and 6-15 are finally rejected under 35 USC 112, first paragraph, for the reasons set forth in the objection to the specification.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 4, 6, 7, 9, 10 and 12-14 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Gardner (6,068,128) in view of Gates (6,318,893) or Wolske (4,207,983). Gardner discloses in the embodiment of Figure 7 a foil bag (701) comprising a bag having a sealed bottom, a number of punched openings (129) with one or more openings located adjacent to the upper edge and the front flat foil bag portion having an incision (733) between the upper edge and the opening. Gardner also discloses the other claimed limitations except for the incision being extending from the upper edge to the opening in such a way that an essentially straight continuous incision being provided between the opening and the upper edge.

Gates shows a bag (50) having at least one opening (22) with an incision extending from the upper edge to the opening in such a way that an essentially straight continuous incision being provided between the opening and the upper edge (Figure 6). Wolske teaches a bag having at least one opening (21) with an incision (21) extending from the upper edge to the opening in such a way that an essentially straight continuous incision being provided between the opening and the upper edge to facilitate tearing (column 3, lines 37-40 and Figures 1-2. It would have

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been obvious to one having ordinary skill in the art at the time the invention was made in view of Gates or Wolske to modify the bag of Gardner so the incision is extending from the upper edge to the opening in such a way that an essentially straight continuous incision is provided between the opening and the upper edge to facilitate removing the bag from the support.

As to claim 4, Gardner further discloses the rearward flat foil bag portion has no incisions extending from the upper edge to the opening (column 7, lines 1-4).

As to claim 6, Gardner discloses the front side folds have openings and incisions similar to the front flat foil bag portion (Figure 7).

As to claim 7, see Figure 6 and column 7, lines 5-8 of Gardner.

As to claims 9 and 10, see the incision of Gates or Wolske.

7. Claims 8 and 11 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Meyer et al. (6,575,300; hereinafter Meyer'300). The bag of Gardner as modified further fails to show at least one incision being extended in a radial direction with respect to the circular opening. Meyer'300 shows a bag having at least one incision (9) extended in a radial direction with respect to the interlocking point (12). It would have been obvious to one having ordinary skill in the art in view of Meyer'300 to modify the incision of Gardner so at least one incision extends in a radial direction with respect to the circular opening for removing the bag from the support because the selection of the specific shape for the incision such as the incision as claimed or disclosed by the references as applied would have been an obvious matter of design choice inasmuch as the resultant structures will work equally well and inasmuch as applicant's specification does not

state that using these specific shapes as claimed solves any particular problem or yields any unexpected results.

8. Claim 15 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Wilfong, Jr. (4,995,860). The bag of Gardner further fails to show the incision being extended beyond the lower circumferential edge over a length of at least a few mm to about 2 cm. To the extent that the Examiner can determine the scope of the claim, Wilfong shows a bag (11) comprising mounting apertures (20) with each mounting aperture including incisions extending (21, 34) beyond the lower edge of the mounting aperture (Figure 14). It would have been obvious to one having ordinary skill in the art in view of Wilfong to modify the incision of the bag of Gardner so the incision extends beyond the lower circumferential edge of the opening to facilitate removing the bag from the support. With respect to the length of the incision, it would have been obvious to one having ordinary skill in the art to modify the incision of the bag of Gardner as modified so it has the length as claimed because such length would have been an obvious matter of design choice.

#### *Response to Arguments*

Applicant's arguments with respect to all pending claims have been considered but are deemed to be moot in view of the new grounds of rejection.

Applicant's arguments with respect to Gates in the remarks are noted. They are not persuasive the Gates is relied upon for nothing more than the incision extending from the upper

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edge to the opening in such a way that an essentially straight continuous incision is provided between the opening and the upper edge.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is 571-272-4552. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

lkb  
June 26, 2007

/Luan K. Bui/  
Primary Examiner  
Art Unit 3728

FOIL BAG PROVIDED WITH A PUNCHED OPENING AND  
INCISIONS  
Gerrit Jan Nieuwenhuis  
Appl. No.: 10/541,281 Atty Docket: MULLE45.001APC  
REPLACEMENT SHEET

NOT APPROVED FOR ENTRY. L.R. Bu  
6/25/07

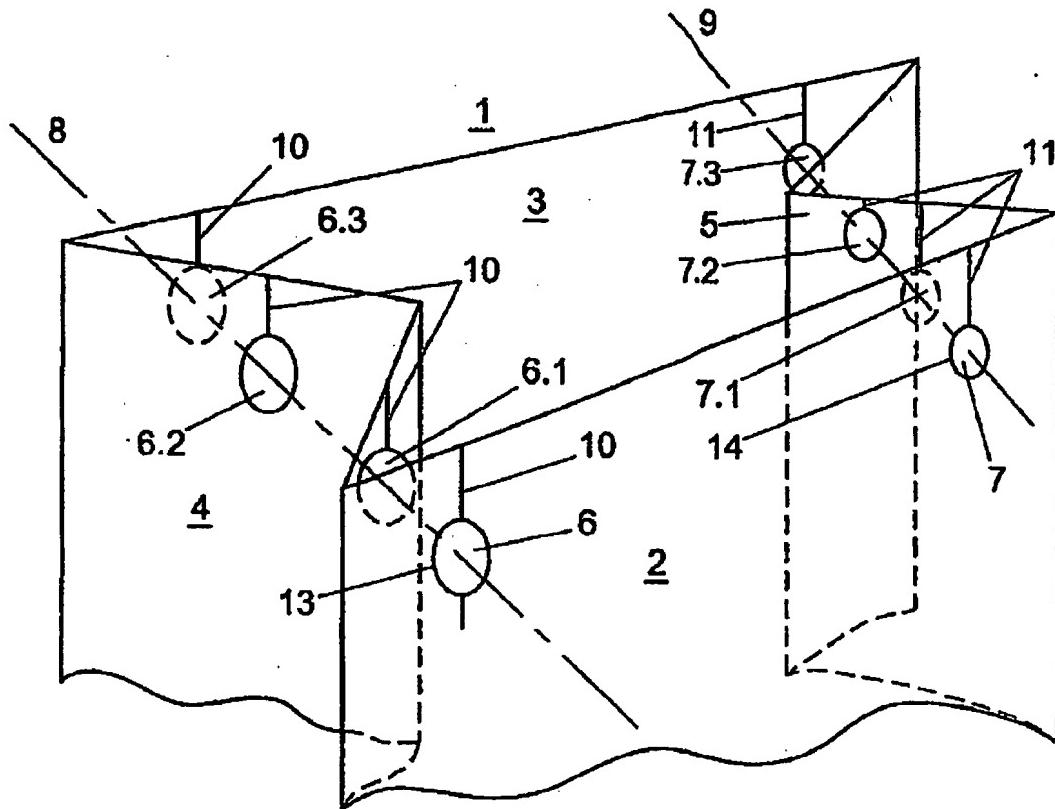


FIG. 1

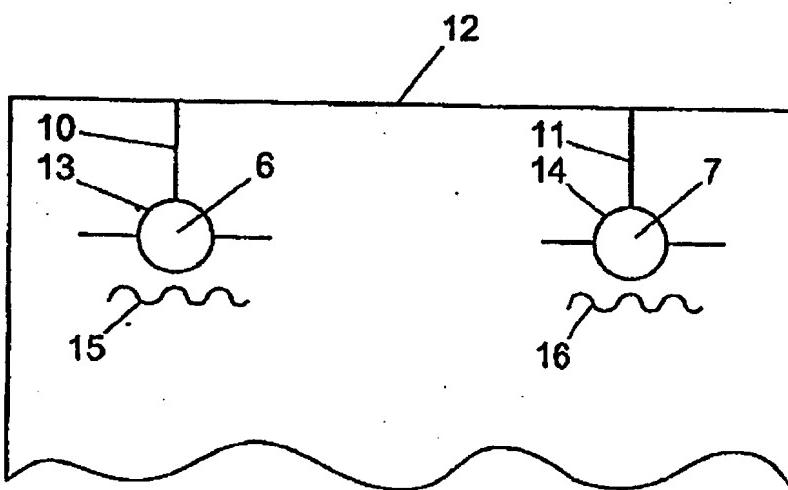


FIG. 2